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\* ADMITTED IN DC ONLY

April 30, 2015

Via ECFS

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re: CG Docket No. 02-278 – Notice of Ex Parte Presentation  
Blackboard Inc. Petition for Expedited Declaratory Ruling**

Dear Secretary Dortch:

On April 28, 2015, Dean Newton, Associate General Counsel for Blackboard Inc. ("Blackboard"), Ron Lori, Chief Communications and Marketing Officer and Lachlan Tidmarsh, Chief Information & Technology Services for Chicago Public Schools ("CPS"), Cynthia B. Harris, Senior Assistant General Counsel, Board of Education of the City of Chicago, Maribeth Luftglass, Assistant Superintendent and Chief Information Officer for Fairfax County Public Schools ("FCPS"), Sheryl Abshire, Ph.D., Chief Technology Officer for Calcasieu Parish School Board ("CPSB"), Louisiana, and the undersigned had five separate meetings with: 1) Commissioner Rosenworcel, Travis Litman, Legal Advisor, and Jennifer Thompson, Confidential Assistant and Special Advisor; 2) Maria Kirby, Legal Advisor to Chairman Wheeler; 3) Martha Heller, Acting Legal Advisor to Commissioner Clyburn; 4) Matthew Berry, Chief of Staff to Commissioner Pai; and 5) Amy Bender, Legal Advisor to Commissioner O'Rielly, regarding the Petition for Expedited Declaratory Ruling ("Petition") filed by Blackboard Inc., which seeks certain declarations

concerning the application of the Telephone Consumer Protection Act (“TCPA”) to the education-related messages sent by the school community using Blackboard’s platform.<sup>1</sup>

The public school representatives explained why their messages fall within the definition of “emergency purposes,” which was established by the Federal Communications Commission (“FCC”) and reaffirmed as recently as 2012.<sup>2</sup> They explained that unexcused absences trigger the majority of the calls placed and, in many instances, are required by law<sup>3</sup> to be made to ensure parents or guardians are aware their student did not arrive at school or stay at school.<sup>4</sup> Schools are responsible for the education of children in the United States. In that role, schools are charged with the health and safety of students while in their care and the telephone numbers expressly provided by guardians every year and updated throughout the year are the only vehicle for communications to address matters critical to student health and safety.

This includes messages regarding school closings for report card pick-up, conferences, lunches, breakfasts, etc. When schools are closed, whether due to security issues, threats, inclement weather, report card pick-up, conferences, etc., guardians need to know children will not be in the care of the school. In addition, changes in lunch menus may trigger health related issues, and for those dependent on federally funded free and reduced lunches, cancellation of school may eliminate the only healthy meal some children receive in a day.<sup>5</sup>

The parties also emphasized the harmful effect of requiring schools to use funding designated for the education of America’s children to defend against class action lawsuits arising from a *de minimis* amount of wrong numbers dialed due to reassigned telephone numbers or good faith errors.

Pursuant to Section 1.1206(b) of the FCC’s rules, a copy of this notice is being filed in the appropriate docket.

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<sup>1</sup> CG Docket No. 02-278, *Consumer and Governmental Affairs Bureau Seeks Comment on Petition for Declaratory Ruling filed by Blackboard, Inc.*, DA 15-364, Public Notice (rel. March 23, 2015).

<sup>2</sup> 47 C.F.R. § 64.1200(f)(4). The Commission first adopted the “emergency purposes” definition in 1992, and reaffirmed the definition in 2012 when it adopted “an exception for autodialed emergency purpose calls” made to public safety answering points. *See Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 7 FCC Rcd 8752 (1992); *Implementation of the Middle Class Tax Relief and Job Creation Act of 2012*, 27 FCC Rcd 13615, ¶ 27 (2012) (allowing the use of automatic dialing or robocall equipment to contact registered numbers for public safety answering points).

<sup>3</sup> *See, e.g.*, 105 ILCS 5/26-3b (Illinois statute requiring absentee notifications to be sent to the telephone number given by the parent or guardian within two hours after the first class in which the child is enrolled); *see also id.* (requiring school districts to obtain contact telephone numbers from parents and guardians at the time of enrollment).

<sup>4</sup> In many instances, teachers are required to report absences from any class where students have more than one class throughout the day.

<sup>5</sup> The CPS reports that 86.02% of its student body for the 2014-2015 school year is economically disadvantaged and eligible for free or reduced breakfast and lunch. *See* Chicago Public Schools, School Data, Limited English Proficiency, Special Ed, Low Income, IEP Report for School Year 2014-2015, *available at* <http://cps.edu/SchoolData/Pages/SchoolData.aspx>.

Please contact me if you have any questions regarding this matter.

Respectfully submitted,

*/s/ Chérie R. Kiser*

Chérie R. Kiser

Counsel for Blackboard Inc.

cc (via e-mail): Commissioner Jessica Rosenworcel  
Travis Litman  
Jennifer Thompson  
Maria Kirby  
Martha Heller  
Matthew Berry  
Amy Bender